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December 6, 2011

VIA ECF

Honorable Andrew L. Carter
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Safeco Insurance Co. of America v. M.E.S., Inc., et al., 1:09-cv-003312
M.E.S., Inc., et al. v. Liberty Mutual Surety Group, et al., 1:10-cv-02798

Dear Magistrate Judge Carter:

In accordance with your directive of November 23, 2011, please allow the following to provide you with the status of these related actions.

In *Safeco Ins. Co of America v. M.E.S, Inc., et al.* (the "Safeco Action"), Safeco Insurance Company of America ("Safeco") and M.E.S., Inc. ("M.E.S.") have both submitted fully briefed motions to compel the production of certain documentation, and await the Court's Order regarding the motions. No further discovery has been conducted since the submission of the motions. MES takes the position that a privilege log with regard to non-party Perini's documents is outstanding from Safeco. Safeco disputes that position, however, the privilege log will be produced by 12/7/11.

The appeals filed on behalf of M.E.S. and the Hirani defendants have been fully submitted before the Second Circuit and await a date for oral argument.

In *M.E.S., Inc., et. al. v. Liberty Mutual Surety Group, et al.*, which has not been consolidated with the Safeco Action, there has been little if any activity as the case has

effectively been held in abeyance pending the resolution of motion practice and the appeal in the Safeco Action. The defendants have not been required to file responsive pleadings, nor has any discovery been conducted with respect to the affirmative claims asserted by MES against Liberty Mutual and S.A. Comunale.

The parties respectfully request that this matter be scheduled for a conference for the the purpose of entering into a scheduling order regarding the remainder of discovery in this matter and remain available for argument of the issues raised in the motions to compel.

Respectfully submitted,



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